

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Apr 13, 2020

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES DEAN CLOUD (01) and
DONOVAN QUINN CARTER
CLOUD (02),

Defendants.

No. 1:19-cr-02032-SMJ-01
1:19-cr-02032-SMJ-02

**ORDER GRANTING IN PART
DEFENDANT DONOVAN QUINN
CARTER CLOUD'S (02) MOTION
TO CONTINUE PRETRIAL
CONFERENCE, TRIAL DATE,
AND CASE MANAGEMENT
DEADLINES**

**AMENDED¹ CASE
MANAGEMENT ORDER**

Before the Court, without oral argument, is Defendant Donovan Quinn Carter Cloud (02)'s Motion to Continue Pretrial Conference and Trial Dates and Extend Deadlines, ECF No. 144, and Supplement to Motion to Continue Pretrial Conference and Trial Dates and Extend Deadlines [ECF 144], ECF No. 163. Defense counsel Richard A. Smith and Mark A. Larranga request a continuance of the pretrial motions filing deadline, the pretrial conference, and the trial, to allow more time to examine discovery, prepare any related motions, and prepare for trial.

¹ This Order amends and supersedes in part the Court's most recent October 4, 2019 Case Management Order, ECF No. 117.

1 Additionally, defense counsel indicate additional time is needed in light of
2 disruptions caused by the outbreak of the Coronavirus Disease 2019 (COVID-19)
3 and the recently-declared national emergency. *Id.* at 3–4. Defendant Cloud (02)
4 supports counsel’s request for a trial continuance for the articulated reasons. ECF
5 No. 164. Defendant Cloud (01) has not taken a position regarding Defendant
6 Cloud’s (02) request for a continuance. ECF No. 163 at 5. Assistant U.S. Attorney
7 Richard C. Burson and Thomas J. Hanlon, appearing on behalf of the Government,
8 do not oppose the request. ECF No. 144 & 163.

9 The Second Superseding Indictment against Defendants (01) and (02) was
10 filed on February 11, 2020. ECF No. 132. Defense counsel Richard A. Smith
11 appeared for Defendant Cloud (02) on February 13, 2020. ECF No. 142. Lorinda
12 M. Youngcourt and Jeremy B. Sporn appeared for Defendant Cloud (01) on
13 February 12, 2020. ECF No. 140. This is Defendant Cloud’s (02) second request
14 for a continuance. This is the third overall request for a continuance in this matter.

15 To ensure defense counsel is afforded adequate time to review discovery,
16 prepare any pretrial motions, conduct investigation, and prepare for trial, the Court
17 grants the motion, extends the pretrial motion deadline, and resets the currently-
18 scheduled pretrial conference and trial dates. The Court finds that Defendant
19 Cloud’s (02) continuance request is knowing, intelligent, and voluntary, and that
20 the ends of justice served by granting a continuance outweigh the best interest of

1 the public and Defendants in a speedy trial. The delay resulting from Defendant
2 Cloud's (02) motion is therefore excluded under the Speedy Trial Act.

3 Counsel are advised that successive continuance requests will be closely
4 scrutinized for the necessity of more time to effectively prepare, taking into account
5 the exercise of due diligence. Furthermore, to ensure this matter is resolved in an
6 expeditious manner, and given the length of the continuance now granted, the Court
7 considers it appropriate to schedule intermediate status conferences. At these
8 conferences the parties should appear and be prepared to discuss the status of the
9 case, trial preparation, anticipated motions, and any other matter that may affect
10 trial readiness.

11 Having considered the parties' proposed case schedule and deadlines, the
12 Court now enters the following Amended Case Management Order, which sets forth
13 the deadlines, hearings, and requirements the parties will observe in this matter. To
14 the extent this Order conflicts with any previously entered Orders in this matter, this
15 Order shall govern. All counsel are expected to carefully read and abide by this
16 Order and such provisions of the current CMO which have not been superseded
17 hereby. The Court will grant relief from the requirements in this Order only upon
18 motion and good cause shown.

19 Accordingly, **IT IS HEREBY ORDERED:**

20 **1.** Defendant Cloud's (02) Motion to Continue Pretrial Conference and

1 Trial Dates and Extend Deadlines, **ECF No. 144**, and Supplement to
2 Motion to Continue Pretrial Conference and Trial Dates and Extend
3 Deadlines, **ECF No. 163**, are **GRANTED IN PART** and **DENIED**
4 **IN PART**.

- 5 **2.** The Court finds, given defense counsel's need for time to review
6 discovery, prepare any pretrial motions, conduct investigation, and
7 prepare for trial, that failing to grant a continuance would result in a
8 miscarriage of justice and would deny defense counsel the reasonable
9 time necessary for effective preparation, taking into account the
10 exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(i), (iv). The
11 Court, therefore, finds the ends of justice served by granting a
12 continuance in this matter outweigh the best interest of the public and
13 Defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

- 14 **3. Original CMO.** Counsel must review the provisions of the original
15 July 8, 2019 CMO, ECF No. 45, and June 18, 2019, ECF No. 31 and
16 abide by those procedures which remain in full force and effect and are
17 incorporated herein except for the new compliance deadlines in the
18 following Summary of Amended Deadlines.

- 19 **4. Pretrial Conference**

20 **A.** The current pretrial conference date of April 21, 2020 is

STRICKEN and RESET to December 15, 2020 at 9:00 A.M.
in **YAKIMA**. At this hearing, the Court will hear **ALL** pretrial motions that are noted for oral argument.

B. All Pretrial Conferences are scheduled to last no more than **thirty (30) minutes**, with each side allotted **fifteen (15) minutes** to present their own motions and resist motions by opposing counsel. If any party anticipates requiring longer than fifteen minutes, that party must notify the Courtroom Deputy at least seven (7) days prior to the hearing. **Any party who fails to provide this notice will be limited to fifteen (15) minutes.**

5. Trial. The current trial date of April 27, 2020 is **STRICKEN and RESET to January 19, 2021, at 9:00 A.M. in YAKIMA**. The **final** pretrial conference will begin at **8:30 A.M.**

6. Pursuant to 18 U.S.C. § 3161(h)(7)(B)(i) and (iv), the Court **DECLARES EXCLUDABLE from Speedy Trial Act calculations** the period from **February 18, 2020**, the date defense counsel moved to continue, through **January 19, 2021**, the new trial date, as the period of delay granted for adequate preparation by counsel.

7. Summary of Deadlines

Status Conference:	June 23, 2020 9:00 A.M. - Yakima
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Status Conference:	August 25, 2020 10:30 A.M. - Yakima
Status Conference:	October 27, 2020 9:00 A.M. - Yakima
Disclose all discovery	October 15, 2020
Alibi Notices	October 15, 2020
Rule 404 (b) and 609 Notices	October 15, 2020
Rule 16 expert summaries (both parties)	October 22, 2020
All pretrial motions, including discovery motions, <i>Daubert</i> motions, and motions <i>in limine</i> , filed	November 24, 2020
PRETRIAL CONFERENCE <i>Deadline for motions to continue trial</i>	December 15, 2020 9:00 A.M. - YAKIMA
CIs' identities and willingness to be interviewed disclosed to Defendants (if applicable)	January 5, 2021
Grand jury transcripts produced to Defendants Case Agent: CIs: Other Witnesses:	January 5, 2021 January 5, 2021 January 5, 2021
Exhibit lists filed and emailed to the Court	January 12, 2021
Witness lists filed and emailed to the Court	January 12, 2021
Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the Court	January 9, 2021
Exhibit binders delivered to all parties and to the Court	January 9, 2021
Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	January 9, 2021
Trial notices filed with the Court	January 9, 2021

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Technology readiness meeting (in-person)	January 12, 2021
JURY TRIAL	January 19, 2021 9:00 A.M. - YAKIMA

IT IS SO ORDERED. The Clerk's Office is directed to enter this Order and provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals Service.

DATED this 13th day of April 2020.



SALVADOR MENDOZA, JR.
United States District Judge